IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 17574 of 2004

Between:

M.Lakshmana Rao, S/o.Late Gopala Krishna Murthy,
Panchayat Secretary Grade-I A.Atchyutapuram, Kakinada @ Mandal, E.G.District.

..... PETITIONER

AND

1 District Collector (Panchayat Wing) East Godavari District,

Kakinada.
2 The District Panchayat Officer, East Godavari District, Kakinada.
3 The Mandal Parishad Development Officer, Kakinada Rural

Mandal, Kakinada East Godavari District.
4 The Mandal Parishad Development Officer, Samalkota Manal,

Kakinada, East Godavari District.
5 D.S.b.K.Kumar S/o.& age not known to petitioner,
Panchayat Secretary Gr.Li S.Atchutapuram Kakinada Rural

Mandal, East Godavari District.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction especially one in the nature of writ of Mandamus declaring the proceedings of the first respondent in L.Dis No.2468/2004-A2 dated 26.7.2004 as being arbitrary, illegal, unconstitutional, null and void and

violative of principles of natural justice by judicially reviewing the orders of the A.P. Administrative Tribunal dated 21st September, 2004 in O.A.No.4455 of 2004 and

consequently allow the O.A. and direct the respondents 1 to 4 to continue the petitioner as Panchayat Secretary Gr.I at S.Atchutapuram, Kakinada Rural Mandal, East Godavari District with consequential and attendant benefits.

Counsel for the Petitioner: MR.Y.VENKAT SASTRY

Counsel for the Respondents 1 & 2: GP FOR SERVICES II

Counsel for the Respondents 3 & 4: Mr. D.Srinivas,Standing Counsel for Panchayats

Counsel for the Respondent No.5: None appeared.

The Court made the following :

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ORDER:(Per Sri GB,J)

This writ petition is filed assailing the order of transfer passed by the Collector, (Panchayat Wing) Kakinada, East Godavari District in L.Dis.No.2468/2004-A-2, dated 26-07-2004.

2. The A.P. Administrative Tribunal, after adjudicating the matter, dismissed the O.A.No.4455 of 2004 holding that the Administrative order does not call for any interference. Against the said order, the present writ petition has been filed.

3. The learned counsel for the petitioner now submits before this Court that the entire statement made in the impugned proceedings dated 26-07-2004 are not factually correct and in fact there was no request for transfer made by the petitioner to post him at Vetlapalem, Samarlakot Mandal. The petitioner was working as Panchayat Secretary at S.Atchutapuram, Kakinada and he did not complete the requisite service so as to post him to other Panchayat. It is further submitted that the transfer was made on the complaint made by the Sarpanch against the petitioner and also in order to accommodate the un-official respondent who was working at Cheediga for

more than six years. Hence, he submits that it is a malafide transfer and the same is made on the complaint of Sarpanch. He further specifically refers to the letter issued by the Sarpanch, Gram Panchayat of S.Atchutapuram, Kakinada dated 20-07-2004 on this aspect. The learned counsel further submits that

though this document was there before the Tribunal, it was not properly considered and thus the order of the Tribunal is liable to be set aside.

4. The learned Government Pleader fairly conceded before this Court that it is not a request transfer. Whether the transfer is made on administrative grounds or not, inasmuch as it was represented by the Sarpanch of the Gram Panchayat that the petitioner was not discharging his duties properly and there are some administrative latches in his performance and therefore, the transfer order is quite legal and valid and it cannot be interfered with by this Court.

5. We have heard the learned counsel for the Petitioner and the learned Government Pleader for respondents.

6. We find from the order of communication dated 20-07-2004 that the Sarpanch of S.Atchutapuram has specifically requested one un-official respondent to be posted at S.Atchutapuram and the petitioner to be transferred on the ground that he was stalling the developmental works. The learned Government Pleader further submits that instead of taking severe action, he was transferred. But the learned counsel for the petitioner submits that the transfer order is liable to be set aside as it is smacks of malice. In view of the fact that the order of the Sarpanch dated 20-07-2004 has virtually influenced the authorities to issue the impugned proceedings, we

find such orders are not sustainable in law and therefore, the order of the Tribunal and also the order of transfer are accordingly set aside. It is however left open to the authorities to re-consider the matter and pass appropriate orders in accordance with rules.

6. The Writ Petition is accordingly allowed. No costs.

G. BIKSHAPATHY, J

P.S.NARAYANA, J

27th December, 2004.

Note: CC by three days

B/o

Chvn/Prv

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Monday, the Twenty seventh day of December, Two thousand and four.

ASSISTANT REGISTRAR.

// TRUE COPY//

SECTION OFFICER.

To

6. District Collector (Panchayat Wing) East Godavari District,

Kakinada.
2 The District Panchayat Officer, East Godavari District, Kakinada.
3 The Mandal Parishad Development Officer, Kakinada Rural

Mandal, Kakinada East Godavari District.
4 The Mandal Parishad Development Officer, Samalkota Manal,

Kakinada, East Godavari District.
5 Two C.Cs. to the G.P. for Services-II, High Court Buildings,

Hyderabad (OUT).

6. Two C.D. copies.

7. The Registrar, A.P. Administrative Tribunal, Hyderabad.